

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WESTERN PLAINS CONSTRUCTION )	4:04CV3336
COMPANY, a Nebraska corporation, )	
)	
Plaintiff, )	
)	<b>MEMORANDUM</b>
vs. )	<b>AND ORDER</b>
)	
JIVIDEN & CO., P.L.L.C., an Oklahoma )	
professional limited liability company, )	
)	
Defendant. )	

On January 23, 2006, the parties advised that this case was settled, and the court entered an order giving the parties thirty days to file a joint stipulation for dismissal. On February 21, 2006, the defendant filed a motion to dismiss (filing 46). This filing purports to work a dismissal of the entire action, but it is signed only by the defendant's counsel. While the court could dismiss the action without prejudice pursuant to its previous order, it appears from the defendant's filing that the parties have agreed to a dismissal with prejudice. Accordingly, I will deny the defendant's motion to dismiss and will give the parties ten days to file a joint stipulation for dismissal with prejudice.

IT IS ORDERED that:

1. Defendant's motion to dismiss (filing 46) is denied;
2. Within ten (10) days of the date of this order, the parties shall file a joint stipulation for dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1) and (c); and

3. Absent compliance with paragraph 2 above, this action, including all claims, counterclaims, and cross-claims, may be dismissed by the court without further notice.

April 3, 2006.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge